for promoting favorites. The law attempts to remedy these defects by requiring promotion to be made for fitness from lower divisions. The qualifications of applicants for promotion must be determined by the civil service commission.

Recommendations were also made in regard to discipline, retiring allowances and probation. Reasonable assurance of permanency of tenure was advocated but no specific provision was made. A probationary period was fixed according to the recommendation but retiring allowances did not appeal to the law makers.

The law prohibits partisan work and influence in obtaining appointments. It provides for a department record of efficiency of all employees below the first division. The civil service commission is given rather wide powers of investigation, being authorized to investigate and report upon the operation of the civil service act and upon request o the head of a department and, with the approval of the governor, may investigate and report upon the organization of the department. This was in part the recommendation of the commissioners. The law carries out a large part of the commissioners' recommendations. It fails however in a few vital points, chief of which is the failure to include the outside service. JOHN A. LAPP.

The Constitutional Union of South Africa. South Africa, the third great group of self-governing British colonies, is in process of unification. While perhaps brewing for a considerable period in men's minds, the first definite beginning of the movement toward union dates from November 28, 1906, when the government of Cape Colony, expressing the belief that the troublesome railway and tariff questions between the different colonies could not be satisfactorily adjusted except as parts of a much broader scheme of political union, requested Lord Selborne, the high commissioner, to "review the situation in such a manner that the public may be informed as to the general position of affairs throughout the country." Lord Selborne, after correspondence with the governments of the other colonies, submitted (January 6, 1907) a report to the secretary of state, which, printed in a Blue-book entitled Papers Relating to a Federation of the South African Colonies, constitutes a most notable state paper and a very able argument in behalf of union. In May, 1908, an intercolonial conference was assembled at Pretoria to discuss the differences between the colonies regarding railway-rates and to revise the customs-union and to provide for its renewal. This conference recognized that a permanent adjustment of these ques-

tions could only be reached through a political union of the colonies, and passed a resolution in favor of such a scheme. A temporary agreement was entered into concerning the matters in dispute; and the delegates returned to their respective colonies pledged to urge the larger policy upon the attention of the various parliaments.

These bodies proved completely sympathetic toward the movement and resolutions affirming the desirability of a closer bond were passed in every colonial parliament. Delegates were appointed by the four colonial governments to a constitutional convention which assembled October 12, 1908, at Durban, but was later adjourned to Cape Town.

The proceedings of the convention were conducted in secret. The speeches and debates are reported to have been of a very high order; the general friendliness among the delegates of the different races and of different colonies and their willingness to compromise were disclosed on every hand. There was no coercing of minorities, and consequently the final results were acquiesced in with practical unanimity. The convention gave evidence all the way through of a very high type of statesmanship. Four months were required to perfect the draft act of union, the convention completing its labors on February 9.

The four colonial parliaments assembled to discuss the proposed constitution on March 30. The Transvaal accepted it in both houses after brief debate and without divisions. Orange River Colony also immediately adopted it but with a few minor amendments. The parliaments in Cape Colony and Natal debated it for several weeks and finally adopted it only with important amen ments.

The second constitutional convention convened on May 3 and, like its predecessor, debated behind closed doors. It amended the constitution in two important particulars: proportional representation, which is provided for by the original draft, is abandoned except for the election of senators and members of the executive committees of provincial councils; and any future modification of the electoral law or the law in regard to provincial councils, it is now provided, must receive the king's assent. Some further amendments of minor importance were also accepted.

It was originally proposed to submit the constitution to the colonial parliaments in June for final adoption, and as soon thereafter as possible a delegation was to proceed to England to facilitate its passage through the British parliament. But the Natal government has provided for a referendum which may delay its acceptance there too late for it to be

submitted at the present session of parliament. Should Natal, which is least enthusiastic about the union, finally reject the constitution, as there is indeed some possibility, this will not prevent the others from consummating it. Her position of isolation would eventually compel Natal, as similar circumstances compelled Rhode Island and North Carolina, to throw her lot in with her sister colonies.

There is much in the events now transpiring in South Africa which reminds the student of American history of the critical period in which our own fundamental law was framed and adopted. Both instruments bear on their face the evidence of compromises on many important conflicts of interest which threatened in each case at times to frustrate the efforts toward union. The issue is even yet not settled in South Africa; the final adoption by all four of the colonies, while altogether probable, is by no means assured.

The provisions of the fundamental law by which it is proposed to consolidate the four self-governing British colonies of South Africa under one general government, and thereby lay the constitutional basis for a great Afrikander nation, are best studied in comparison with the constitutions of Canada and Australia, from which it has directly borrowed much, and with that of the United States, which has served as the ultimate model for all three. The tendency toward economic and industrial concentration, becoming ever more pronounced, which in the United States is impelling a centralization of government by the extremely laborious and unsatisfactory method of judicial interpretation, is manifested in these three groups of British colonies in the progressively enlarged powers which have been conferred upon the central government. The federal government of Canada not only enjoys important specific powers which the constitution of the United States has left to the several states, but the principle of residual authority has been just reversed there, the central government possessing all these powers which are not conferred in terms upon the provinces. In Australia, it is true, the residual powers are left with the states, but the enumeration of powers conferred upon the commonwealth is so exhaustive as to endow it in fact with even larger authority than the Canadian central government possesses. In the draft constitution for South Africa this tendency toward centralization is pushed a long stride farther by abandoning the federal type of government and uniting the four colonies into a consolidated union. The unitary character of the proposed government, it is true, is somewhat disguised, the colonies retaining in the form of provinces very important functions, and for a term of ten years being

protected from serious encroachment on the part of the central government. Their complete ultimate dependence upon the government of the union, however, which possesses, not merely, as in Canada, the right of vetoing specific acts of legislation, but also the power to completely alter by law the organization of their governments and to denude them, if it chooses, of the prerogatives with which the constitution for the time-being endows them, leaves them in effect merely important divisions for local government.

That the South African colonies, so recently the scene of a bitter racial war, should prefer a unitary to a federal form of government seems at first indeed strange. Paradoxical as it may appear, however, this close union has been facilitated by the struggle so fresh in everyone's memory. The war was fought along racial lines which do not coincide with colonial boundaries. In every colony there was a British and a Boer party. The union of Britons throughout the entire area, on the one side, of Boers on the other, had a most important influence in developing a broader national consciousness on the part of each. For the time-being colonial lines sank out of sight, and they have never since been so strong as before. The men who are engaged in the work of constructing this new government are those who were most active in the recent conflict. There they learned to look at politics from the point of view of all South Africa. With the issue of the struggle settled definitively, and the wounds well-nigh healed by the generous grant of responsible government to the Transvaal and Orange River Colony, there is no insuperable difficulty in the way of union. Boer and Briton can both approach the problem devoid of the narrow particularism of ante-bellum days.

South Africa constitutes one physiographical unity in which the center of natural resources and of population—if not at present, certainly in the near future—lies far in the interior. Johannesburg and Kimberley are the focal points of commerce and industry and the sources of wealth. The interdependence of these mining centers and the rest of the country is very close and intimate. Colonial boundary lines constitute no natural barrier; the economic and physiographical factors strongly tend toward unity. The prevailing Afrikander sentiment was well expressed by Mr. Merriman, the Cape premier, who is reported to have said that they did not want in South Africa such a bundle of "jangling, wrangling states" as is found in Australia.

Like the constitutions of the other self-governing colonies that of South Africa will be embodied in an act of the British parliament; but unlike the British North America act, it is capable of amendment by the parlia-

ment of the union; and unlike the commonwealth of Australia constitution act (which permits amendment without reference to the British parliament, the amendment of the South African constitution requires no other or different procedure than an ordinary law. In other words, South Africa is to have a flexible instead of a rigid constitution. The only exceptions to the general rule above stated, other than those which are limited to a period of ten years, are the sections which guarantee the natives in Cape Colony in their right to the suffrage and which place English and Dutch on an exact equality as the official languages. Changes in these two provisions can only be effected by the two houses sitting together and agreeing to them by not less than two-thirds of the total number of members of both houses.

Like all the self-governing colonies, South Africa will have a parliamentary type of government, in which ministerial responsibility to the representative body constitutes the central feature, although no provision is made in terms for this institution. The executive power is nominally vested in a governor-general, appointed by the British crown, and receiving from the union a salary of £10,000 a year, and an advisory executive council, appointed by the governor-general, and holding office during his pleasure. In fact, practically all executive power will lie with the ministers, who are limited in number to ten. After the first general election no minister may hold office for longer than three months without becoming a member of one or other of the houses of parliament. Ministers will enjoy the right, which French ministers possess, of appearing and speaking in both houses.

The legislative power in the union is vested in a parliament, which shall be summoned annually, consisting of senate and house of assembly. The governor-general possesses the usual powers of convening, proroguing and dissolving the two houses of parliament, or he may dissolve the lower chamber alone. It is provided, however, that the senate shall not be dissolved within ten years of the establishment of the union, and that any subsequent dissolution shall affect only the elected, not the nominated, senators. Each chamber shall select its own presiding officers and make its own rules of procedure. The qualifications common to members of both houses are: (a) being a registered voter for members of the house of assembly in one of the provinces; (b) having resided for five years in the union; (c) being a British subject of European descent. In addition senators must be at least thirty years of age, and elected senators must be the registered owners of immovable property in the union of at least £500 clear value. The following classes of persons are

disqualified: (a) those who have within five years suffered imprisonment for serious crimes, unless freely pardoned; (b) unrehabilitated insolvents; (c) insane persons; (d) persons holding offices of profit under the crown, within the union, excepting ministers of state for the union, pensioners of the crown and members of the naval or military forces of the empire on retired or half pay, or whose services are not wholly employed by the union. Members of each house receive an allowance of £400 (£300 in the original draft) a year, from which £2 is deducted for each day's absence.

The provisions in regard to the senate are perhaps the least satisfactory of any in the constitution. This chamber is to consist of an elective and a nominated element. The former consists of eight senators chosen from each province, originally by the legislature of the colony, but afterward by the provincial council combined with the members of the house of assembly from the province. Thus the members of the lower house have a voice in selecting those of the upper. The utilization of the principle of indirect election in the choice of senators is manifestly suggested by the United States' constitution, since it appears in none of the other self-governing colonies. It is certainly remarkable that this particular feature of our constitutional law, which more than any other is subjected to general criticism, and which is in several states now circumvented by laws providing for a popular mandate, should commend itself to the framers of the South African constitution. The nominated element consists of eight senators appointed by the governor-general in council, one-half of whom shall be chosen on account of their acquaintance with the reasonable wants and wishes of the colored races in South Africa—a manifestly wise and important safeguard. The term of senators is ten years. The federal principle comes most nearly to expression in the construction of the senate, in which the provinces are represented equally. It may be safely predicted, however, that the senate will, like most upper chambers, not seriously threaten the predominance of the more popular body. The long term of its members will deprive it of that close connection and sympathy with public opinion which is nowadays so indispensable to a legislative body; while its lack of all control over financial legislation, entirely uncompensated by executive or judicial functions or by control over appointments, will still further diminish its powers. Ministers, it may be presumed, will recognize a responsibility only to the house of assembly. The South African senate may not sink into the position of complete insignificance which the wholly nominated Canadian senate occupies, but it can scarcely be

expected to maintain an importance equal to that of the Australian upper chamber which is elected directly by the people for six years.

The house of assembly will be chosen by "the voters of the union" for a term of five years, and will number in its original composition 121 members, of which the Cape is assigned 51, Natal 17, Transvaal 36, and Orange River Colony 17. Provision is made for an automatic redistribution of seats every five years on the basis of a quinquennial census of male adults of European descent. The number of members assigned to any province shall not be diminished, however, until the total number of members reaches 150, which number shall thenceforth remain fixed, unless parliament otherwise provides. In the original assignment it is to be noted that Cape Colony has not been given her just proportion of members, while Orange River Colony and especially Natal enjoy a disproportional advantage. A strict adherence to the principle of numbers of male adults of European descent would give Cape Colony 58, Natal 12, Transvaal 37, and Orange River Colony 14.

The powers of parliament, as has been indicated, are of the broadest character. Money bills must originate in the lower house and may not be amended by the senate, which is, moreover, forbidden to amend any bill so as to increase any proposed charges or burden on the people; but "tacking" is made practically impossible by the provision that the regular appropriation bills shall deal only with such appropriations. An endeavor has been made to prevent deadlocks between the two houses in a provision copied, in a modified form, from the Australian constitution. When the senate fails to concur in any measure passed by the house in two successive sessions, the governor-general is empowered to convene a joint sitting where the two houses may deliberate and vote together upon the bill; amendments may be offered and accepted; and if finally the measure receives the assent of the majority of the members present of such joint sitting, it shall be considered as having duly passed parliament. As in the other British colonies, acts passed by the legislative body may receive the governor-general's assent, be vetoed by the governor-general, or reserved for the king's pleasure. The king may also disallow any law within one year after it has been assented to by the governor-general, which operates at once to nullify it.

The problems connected with the organization of the electorate were among the most difficult to settle. In the Cape Colony, where a broad suffrage exists in which many natives are included, views in regard to the franchise qualifications prevail which the northern colonies will not tolerate for a moment. Cecil Rhodes' principle of "Equal rights for all

civilized men" has even proved too liberal. The difficulty of harmonizing the divergent opinions upon this vital question was finally overcome by a wise compromise which permits the parliament, when organized, to prescribe voting qualifications, but safeguards native rights by forbidding the disqualification of any person in Cape Colony who is, or may be, entitled to the suffrage under the laws of the Colony existing at the time of the union, unless the law embodying such disqualification shall be passed by the two houses sitting together by a two-thirds majority of all members of both houses. Moreover no person who is a registered voter in any province at the time of the establishing of the union shall be removed from the register by any disqualification based on race or color. This compromise commends itself as eminently fair and just, the more so as the radicals in both parties vehemently oppose it.

In order to avoid the possibility of a gerrymander in the laying out of the electoral districts—an imminent danger in view of the fact that the Boers for the most part predominate in the rural sections of the country while the British are chiefly massed in the cities—an elaborate scheme has been worked out for a commission consisting of judges of the supreme courts of the various colonies, nominated by the several governors in council whose duty it shall be to divide each province into electoral divisions. According to the first draft of the constitution each electoral division (except in special cases of sparsely populated areas where a less number might be permitted) was to return three or more members to parliament. In electing these a system of proportional representation by means of the single transferable vote was to be instituted. This provision has now been struck out, and the electoral divisions, as at present proposed, will be single-member districts. In laying out the electoral divisions the commission is instructed to give due consideration to: (a) community or diversity of interests; (b) means of communication; (c) physical features; (d) existing electoral boundaries; (e) sparsity or density of population. While taking the quota of voters derived by dividing the total number of voters in the province by the numbers of members in the Assembly assigned to it as the basis of division, the commission is permitted, when they deem it necessary, to depart therefrom either more or less not exceeding 15 per centum. After each quinquennial census a similar commission consisting of three judges of the supreme court of South Africa is to redistrict the provinces.

The supreme court of South Africa will consist of an appellate division and of the several divisions in the different provinces, each of the existing colonial supreme courts being constituted as a division of the supreme

court of South Africa. The appellate division will consist of the chief justice of South Africa, two ordinary judges of appeal (these being unattached to any provincial division), and two additional judges of appeal, who are from time to time assigned to the appellate division from any of the provincial divisions by the governor-general in council, and who continue to perform their duties as judges in their respective divisions when not in attendance upon the appellate division. All judges of the supreme court serve during good behavior and are removable only on an address by both houses of parliament. It is provided that: "There shall be no appeal from the supreme court of South Africa or from any division thereof to the king in council, but nothing herein contained shall be construed to impair any right which the king in council may be pleased to exercise to grant special leave to appeal from the appellate division to the king in council. Parliament may make laws limiting the matters in respect of which such special leave may be asked, but bills containing any such limitation shall be reserved by the governor-general for the signification of His Majesty's pleasure." From this it is apparent that South Africa, like Australia, proposes to limit appeals to the judicial committee to the narrowest limits. Only in matters in which general imperial interests are directly affected, it may be presumed, will appeals to London be permitted.

The questions of finance and railways, which were the inciting cause to the union, were settled with unexpected ease. The permanent financial relations between the union and the provinces are left to the union parliament to settle finally, after a thorough inquiry into all the questions involved has been made by a special commission presided over by an officer of the imperial government. The railways, which in South Africa are in nearly every case state-owned, and the harbors are to be all transferred to the union government and managed by a board of three commissioners, holding office for five years, and constituting a department of the administration under the control of a minister. Guarantees are introduced to prevent their being administered for the benefit or disadvantage of any community.

Native affairs within the union will henceforth be in the hands of the central government which will pursue, it is hoped, a broader, more satisfactory policy than the separate colonies have been capable of hitherto. The native protectorates remain for the present under the administration of the high commissioner as the direct representative of the imperial government. The constitution provides, however, that the king in council may, on address of both houses of the South African

parliament, transfer them or any other territories under British sovereignty, not originally incorporated in the union, to the government of the union in accordance with terms laid down in a schedule appended to the constitution. These appear to offer sufficient guarantees that the principles of administration, hitherto in force, will be continued.

The original name of Orange River Colony is to be revived; it will henceforth be known as Orange Free State. The proposal of this change, emanating from Doctor Jameson, is certainly significant of the prevailing good-feeling and absence of all rancor for old scores.

One of the most difficult questions to settle was that of the capital. The importance of the issue was largely sentimental, but for that very reason more difficult to compromise than questions in which much greater material interests were involved. Pretoria and Cape Town were the two rival cities for the seat of government. Neither would forego its claims, and it seemed for a time that the union itself might be wrecked on this single question. At the very end of the convention a compromise was agreed to by which Pretoria is to become the seat of the administration, while Cape Town is to be the meeting-place of the parliament; the appellate division of the supreme court is to be located at Bloemfontein. *Punch* offers the inhabitants of South Africa the consolation that this arrangement of three capitals is not after all so bad as if their new government were "to be at Pretoria on Mondays, Wednesdays and Fridays, at Cape Town on Tuesdays and Saturdays and at Bloemfon ein on Thursdays and Sundays." WALTER JAMES SHEPARD.

Election of United States Senators. The "Oregon Plan" of providing for the actual popular election of United States senators has been adopted by Nebraska. This action is not a radical innovation, but merely the last in a series of steps designed to bring the choice of these officials under popular control. The Nebraska constitution (adopted 1875) authorized the legislature to "provide that at the general election immediately preceding the expiration of the term of a United States senator from this state, the electors may by ballot express their preference for some person for the office." Such a provision was duly incorporated in the general election law enacted in 1879. In 1904 and 1906 senatorial candidates were nominated by state party conventions in advance of the legislative campaign, and the majority party in the ensuing legislature elected its candidate on the first ballot. In 1907 a direct primary law was enacted which substituted nomination by the people for that by convention. Hence, with provisions for direct party